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jurisdiction specified at the time of designation.

Preliminary draft means any nonfinal document that is not a circulated draft.

Presiding Officer means one or more members of the Commission, or an atomic safety and licensing board, or a named officer who has been delegated final authority in the matter, designated in the notice of hearing to preside.

Searchable full text means the electronic indexed entry of a document that allows the identification of specific words or groups of words within a text file.

Simple document means a document that consists of electronic files that are 50 megabytes or less.

Topical Guidelines means the set of topics set forth in Regulatory Guide 3.69, Topical Guidelines for the Licensing Support System, which are intended to serve as guidance on the scope of “documentary material”.

[54 FR 14944, Apr. 14, 1989, as amended at 56 FR 7795, Feb. 26, 1991; 63 FR 71736, Dec. 30, 1998; 66 FR 29465, May 31, 2001; 66 FR 55788, Nov. 2, 2001; 69 FR 2264, Jan. 14, 2004; 69 FR 32848, June 14, 2004]

§ 2.1002 [Reserved]

§ 2.1003 Availability of material.

(a) Subject to the exclusions in § 2.1005 and paragraphs (b), (c), and (e) of this section, DOE shall make available, no later than six months in advance of submitting its license application for a geologic repository, the NRC shall make available no later than thirty days after the DOE certification of compliance under § 2.1009(b), and each other potential party, interested governmental participant or party shall make available no later than ninety days after the DOE certification of compliance under § 2.1009(b)—

(1) An electronic file including bibliographic header for all documentary material (including circulated drafts but excluding preliminary drafts) generated by, or at the direction of, or acquired by, a potential party, interested governmental participant or party; provided, however, that an electronic file need not be provided for acquired documentary material that has already

been made available by the potential party, interested governmental participant or party that originally created the documentary material. Concurrent with the production of the electronic files will be an authentication statement for posting on the LSN Web site that indicates where an authenticated image copy of the documents can be obtained.

(2) In electronic image format, subject to the claims of privilege in § 2.1006, graphic-oriented documentary material that includes raw data, computer runs, computer programs and codes, field notes, laboratory notes, maps, diagrams and photographs, which have been printed, scripted, or hand written. Text embedded within these documents need not be separately entered in searchable full text. A bibliographic header must be provided for all graphic-oriented documentary material. Graphic-oriented documents may include—

- (i) Calibration procedures, logs, guidelines, data and discrepancies;
- (ii) Gauge, meter and computer settings;
- (iii) Probe locations;
- (iv) Logging intervals and rates;
- (v) Data logs in whatever form captured;
- (vi) Text data sheets;
- (vii) Equations and sampling rates;
- (viii) Sensor data and procedures;
- (ix) Data Descriptions;
- (x) Field and laboratory notebooks;
- (xi) Analog computer, meter or other device print-outs;
- (xii) Digital computer print-outs;
- (xiii) Photographs;
- (xiv) Graphs, plots, strip charts, sketches;
- (xv) Descriptive material related to the information identified in this paragraph.

(3) In an electronic file, subject to the claims of privilege in § 2.1006, only a bibliographic header for each item of documentary material that is not suitable for image or searchable full text.

(4) An electronic bibliographic header for each documentary material—

- (i) For which a claim of privilege is asserted;
- (ii) Which constitutes confidential financial or commercial information; or

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(iii) Which constitutes safeguards information under § 73.21 of this chapter.

(b) Basic licensing documents generated by DOE, such as the Site Characterization Plan, the Environmental Impact Statement, and the license application, or by NRC, such as the Site Characterization Analysis, and the Safety Evaluation Report, shall be made available in electronic form by the respective agency that generated the document.

(c) The participation of the host State in the pre-license application phase shall not affect the State's ability to exercise its disapproval rights under section 116(b)(2) of the Nuclear Waste Policy Act, as amended, 42 U.S.C. 10136(b)(2).

(d) This subpart shall not affect any independent right of a potential party, interested governmental participant or party to receive information.

(e) Each potential party, interested governmental participant or party shall continue to supplement its documentary material made available to other participants via the LSN with any additional material created after the time of its initial certification in accordance with paragraph (a)(1) through (a)(4) of this section until the discovery period in the proceeding has concluded.

[63 FR 71737, Dec. 30, 1998, as amended at 66 FR 29465, May 31, 2001; 69 FR 2264, Jan. 14, 2004; 69 FR 32848, June 14, 2004]

§ 2.1004 Amendments and additions.

Any document that has not been provided to other parties in electronic form must be identified in an electronic notice and made available for inspection and copying by the potential party, interested governmental participant, or party responsible for the submission of the document within five days after it has been requested unless some other time is approved by the Pre-License Application Presiding Officer or the Presiding Officer designated for the high-level waste proceeding. The time allowed under this paragraph will be stayed pending Officer action on a motion to extend the time.

[63 FR 71737, Dec. 30, 1998]

§ 2.1005 Exclusions.

The following material is excluded from the requirement to provide electronic access, either pursuant to § 2.1003, or through derivative discovery pursuant to § 2.1019(i)—

- (a) Official notice materials;
- (b) Reference books and text books;
- (c) Material pertaining exclusively to administration, such as material related to budgets, financial management, personnel, office space, general distribution memoranda, or procurement, except for the scope of work on a procurement related to repository siting, construction, or operation, or to the transportation of spent nuclear fuel or high-level waste;
- (d) Press clippings and press releases;
- (e) Junk mail;
- (f) References cited in contractor reports that are readily available;
- (g) Classified material subject to subpart I of this part;
- (h) Readily available references, such as journal articles and proceedings, which may be subject to copyright.
- (i) Correspondence between a potential party, interested governmental participant, or party and the Congress of the United States.

[63 FR 71738, Dec. 30, 1998, as amended at 69 FR 32848, June 14, 2004]

§ 2.1006 Privilege.

(a) Subject to the requirements in § 2.1003(a)(4), the traditional discovery privileges recognized in NRC adjudicatory proceedings and the exceptions from disclosure in § 2.390 may be asserted by potential parties, interested States, local governmental bodies, Federally-recognized Indian Tribes, and parties. In addition to Federal agencies, the deliberative process privilege may also be asserted by States, local governmental bodies, and Federally-recognized Indian Tribes.

(b) Any document for which a claim of privilege is asserted, but is denied in whole or in part by the Pre-License Application Presiding Officer or the Presiding Officer, must be provided in electronic form by the party, interested governmental participant, or potential party that asserted the claim to—

- (1) The other participants; or